

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4155 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

=====

1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

-----  
MAKWANA BHARTIBEN BALUBHAI

Versus

OFFICE OF THE JOINT DIRECTOR

-----  
Appearance:

MR RV DESAI for Petitioners

Mr.H.C.Patel and Mr.V.B.Gharania for respondents

Nos.1 and 3.

MR DN PATEL for Respondent No. 2

-----  
CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 26/11/1999

ORAL JUDGEMENT

1. Rule. Mr. H.C.Patel and Mr.V.B.Gharania waives  
service of rule on behalf of respondents Nos.1 and 3.  
Mr. D.N.Patel waives service of rule on behalf of  
respondent No.2.

2. Petitioners herein, who are eight in number, had

applied for the job of Anganvadi workers in Dholka Taluka. It is not in dispute that there were 30 old Anganvadis and 17 new Anganvadis. Interviews for the post of Anganvadi workers, as aforesaid, were held on 18.9.96 and the select list was prepared. It is also not in dispute that on the basis of this select list, 16 + 14 = 30 appointments in all were given on 27.9.96 and 7.11.96 respectively. However, petitioners are amongst those, who have not been appointed although their names were there in the select list. Respondents have taken a stand that the selection as a whole suffered from certain irregularities and, therefore, these selections had not been ratified. Respondents, while attacking the selection held by them, have submitted that the 30 appointments, as had been given in September 1996 and November 1996, as aforesaid, are continuing and although the selection of these 30 candidates included in the select list suffers from the same irregularities, according to them, their appointments still continue and remain untrammelled and the petitioners have been denied appointments although their names appear in the very select list because respondents find that the select list was irregular and it should not have been acted upon any more. Availability of the vacancies is not disputed and the only argument is that the respondent No.2 i.e. District Development Officer, Ahmedabad District Panchayat did not ratify the select list. If the select list had not been ratified as a whole, it should not culminate into any appointment, whereas admittedly 30 appointees out of the very select list are continuing. Respondents, therefore, cannot be allowed to blow hot and cold in the same breath and when the names of the petitioners are admittedly there in the very same select list, they cannot be denied the benefit of their selection, as have been given to the 30 appointees from the very same select list. In case the respondents do not want to discontinue the appointments, as Anganvadi workers, already given to 30 candidates in 1996 of the very same select list, there cannot be any justification to deny the appointments to the present petitioners, whose names are included in the very select list or else it will be a case of treating similarly situated persons in a different manner.

3. In the facts and circumstances of this case, this petition succeeds and it is directed that if the respondents are not desirous of discontinuing the earlier appointees of the very same select list, appointments shall not be denied to the present petitioners and they shall also be considered for appointment as Anganvadi workers against the available posts of Anganvadi workers

and the very same select list, which was prepared in the year 1996, shall be made use of for appointing the petitioners and other candidates included therein on the basis of their merit position in the said select list. Rule is made absolute. No order as to costs.